

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID R. FOLEY,
Plaintiff,
v.
US BANK NATIONAL ASSOCIATION,
et al.,
Defendants.

Case No. 23-cv-00877-VC

**ORDER GRANTING MOTION TO
DISMISS**

Re: Dkt. No. 7

The motion to dismiss is granted. The complaint is mostly incoherent, and so it is difficult to assess Foley’s claims. It primarily offers only “threadbare recitals of a cause of action’s elements, supported by mere conclusory statements,” and so it is dismissed for that reason. *Ashcroft v. Iqbal*, 556 U.S. 662, 663 (2009).

Accepting the defendant’s interpretation of the complaint, it seems highly unlikely that Foley could state a claim. Among other problems, Foley does not have standing to challenge defects in the securitization process because he is “not a party to those transactions and [is] not the victim[].” *Hunt v. U.S. Bank, N.A.*, 593 F. App’x 730, 732 (9th Cir. 2015). The Note is not void just because there is a blank indorsement. See *In re Lee*, 408 B.R. 893, 899 (Bankr. C.D. Cal. 2009) (“If the indorsement does not specify a payee, it constitutes a ‘blank indorsement,’ as defined in CCC § 3205(b) (UCC § 3–205(b)), which makes the note payable to whoever is the bearer of the note.”). And the debt is not time-barred. Cal. Civ. Code § 882.020 (“[T]he lien of a mortgage, deed of trust, or other instrument that creates a security interest of record in real property to secure a debt or other obligation” expires either 10 years after the final maturity date, or if no maturity date is ascertainable, 60 years after the date the instrument was recorded).

In an abundance of caution, dismissal is with leave to amend. Any amended complaint is due within 14 days of this order. If an amended complaint is filed and the defendant files another motion to dismiss, Foley's filings must comply with the page limits imposed by the Court's standing order.

IT IS SO ORDERED.

Dated: May 10, 2023



VINCE CHHABRIA
United States District Judge